

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Closed Captioning of Video Programming)	CG Docket No. 05-231
)	
)	

To: The Commission

REPLY COMMENTS

Maranatha Broadcasting Company, Inc. ("MBC"), licensee of independent television station WFMZ-TV, Allentown, Pennsylvania, through counsel and pursuant to Section 1.415 of the Rules, hereby submits these Reply Comments concerning the FCC's *Notice of Proposed Rule Making* in CG Docket No. 05-231, 20 FCC Rcd 13211 (July 21, 2005) (the "*NPRM*").

In the *NPRM*, the FCC has decided to explore a number of possible changes in its closed-captioning rules, including an important change in the manner in which the FCC determines compliance. Effective January 1, 2006, all television broadcast stations are required to provide closed captioning for all of their English-language programming, and up to 900 hours per quarter of their Spanish-language programming. However, with the exception of stations affiliated with the four major networks in the 25 largest markets, stations are allowed to count, as meeting the closed-captioning requirements, live programs captioned with the so-called "electronic newsroom" captioning technique, which provides captioning derived from scripts or teleprompters. The ENR technique does not directly produce captions of live, unscripted remarks, as might occur during live on-the-

scene reports, interviews or coverage of late-breaking developments. In the *NPRM*, the FCC asks (§ 48) whether captioning costs have decreased “such that little hardship would result if the FCC were to further limit the circumstances under which captions created using the electronic newsroom technique would be allowed to count as captioned programming?” The answer to that question is an emphatic “no.” Further limitations on the ability to count electronic newsroom technique-captioned programming as compliance with the closed-captioning requirements would be prohibitively expensive for independent television stations such as WFMZ-TV and would result in less local news programming, for the public as a whole, for viewers with hearing impairments, and for niche audiences who are served uniquely by independent stations.

WFMZ-TV is located in the Philadelphia television market, ranked by Nielsen as the nation's fourth largest, with nearly three million television households. Because WFMZ-TV is an independent station, it is permitted to count live programming captioned by the electronic newsroom technique as in compliance with its closed-captioning obligations.

WFMZ-TV broadcasts 55 local half-hour newscasts each week, including five half-hour Spanish-language newscasts (M-F at 11:00 p.m.) originating from the station's Philadelphia studio.¹ Those five newscasts represent the only locally-originated, regularly-scheduled, full-length Spanish-language news programs in the Philadelphia market. WFMZ-TV also broadcasts a half-hour Berks County edition, from studios in Reading,

¹ The five half-hour Spanish-language newscasts constitute WFMZ-TV's only Spanish-language programs and are, therefore, subject to the captioning requirements.

Pennsylvania, twice daily (5:30 p.m. and 10:30 p.m, M-F), emphasizing news of particular importance to Berks County.

All of WFMZ-TV's news programs, including its Spanish-language and Berks County editions, are captioned using the electronic newsroom technique. In addition, WFMZ-TV uses crawls and other visual aids to ensure that broadcasts of live, unscripted emergency information are available to hearing-impaired members of the WFMZ-TV audience in a timely manner.

The *NPRM*'s proposed extension of the existing limitations on the electronic newsroom technique is addressed in the Comments of the Radio and Television News Directors Association, the National Association of Broadcasters, and Cosmos Broadcasting Corp., et al. RTNDA asserts (RTNDA Comments, p. 3) that the cost of full, real-time closed captioning remains "prohibitively high," and that the cost of closed-captioning for news departments in major markets typically runs from \$15,000 to \$30,000 per month, but in some cases to as much as \$500,000 per year (RTNDA Comments, p. 4). Cosmos demonstrates (Cosmos, et al, Comments, p. 4) that the costs of full captioning are increasing, not decreasing as the *NPRM* seems to presume, with budgeted costs for a typical top-25 market affiliated station now in the range of \$350,000 per year.

In these Reply Comments MBC wants to add an important amplification to the RTNDA, NAB and Cosmos comments, to make it clear that the requirement for full, real-time closed captioning not only should *not* be extended *beyond* the top 25 markets, it should not be extended to *non-network affiliated*, i.e., independent, stations *within* the top 25 markets.

As an independent station, WFMZ-TV's financial resources are more similar to a small market station than to a top-25 market network affiliate. Yet the cost of full, real-time closed captioning for all of its 55 local news programs would likely exceed the costs cited by RTNDA and Cosmos for a major market network affiliate, because WFMZ-TV provides 50 percent more local news programming each week than most major market network affiliated stations, including affiliates of the major networks in the very largest markets.

A requirement to bear the additional cost of full, real-time closed captioning for all of WFMZ-TV's news programs, whether \$100 per hour or \$500 per hour or any figure in between, would have catastrophic consequences. It would likely result in the cancellation of the Philadelphia market's only regularly-scheduled full-length Spanish newscasts, and WFMZ-TV's edition specifically produced for viewers in Berks County, and a number of other news programs. Staff cuts would be required, and fewer reporters and producers would be available to cover important local news stories, including local emergency situations.

As noted by RTNDA, "Despite [the electronic newsroom technique's] drawbacks, its use does not render local news programming virtually inaccessible to the deaf and hearing impaired." RTNDA Comments, p. 6. To the contrary, the electronic newsroom technique provides hearing-impaired viewers with access to the central elements of each newscast, and other visual components in the newscast, such as weather reports, slides and video-tape provide hearing-impaired viewers with other essential information.

It would make absolutely no sense for the FCC to adopt an inflexible captioning rule that had as its consequences less Spanish-language news programming, and less local news programming for the hearing-impaired community *and* the community as a whole.

For that reason, the FCC should not extend the existing limited restriction on the use of the electronic newsroom technique to comply with broadcasters' closed-captioning obligations, to medium or smaller market stations or to independent stations in markets of any size.

Respectfully submitted,

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